

D.B. CIVIL SPECIAL APPEAL(W)NO.1129/2006

Swaroop Singh
Vs.
State of Rajasthan & Ors.

Date of Order :: 26-04-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Tanveer Ahmed, for the appellant.

This special appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition seeking declaration that the discharge of the appellant from service was illegal and after quashing the same treating the appellant's resignation as voluntary retirement from service and to grant him retiral benefits.

The learned Single Judge found that appellant discharged from service on account of resignation on 31.8.1972 whereas petition was filed in the year 2002 i.e. after 30 years and in the circumstances, on the ground of delay which has not been explained, dismissed the writ petition.

Counsel for the appellant submitted that appellant having rendered service in the Police Department for 13 years, there was no reason for him to resign from service. In any case it was submitted that discharge order was passed only on 1.8.2002 vide

annexure-1 to the writ petition, and therefore there was no occasion for the appellant to file writ petition earlier. The submissions are totally misconceived.

From bare reading of annexure-1, it is manifest that the appellant was discharged from service on account of resignation with effect from 31.8.1972. Annexure-1 is not an order, as such, it is merely a certificate apparently issued on request of the appellant which is evident from the words "*Tasdik ki jati hai*" meaning thereby certified that.....

We are satisfied that cause of action, if any, accrued to the appellant on 31.8.1972 or thereafter and the writ petition having been filed after 30 years, he was not entitled to retiral benefits. The writ petition was dismissed on the ground of laches.

It is difficult to accept the case of the appellant that it was a case of voluntary retirement not resignation. As the appellant resigned from service resulting in forfeiture of past service, it is clear that he was not entitled to retiral benefits. We thus find no merit in the claim of the appellant.

The appeal is dismissed.

[MOHAMMAD RAFIQ], J.

[S.N. JHA], C.J.